



DEPARTMENT OF EDUCATION

RIN 1810-AB67

34 CFR Chapter II

[Docket ID ED-2022-OESE-0094]

Proposed priorities, requirements, and definitions--Mental  
Health Service Professional Demonstration Grant Program

AGENCY: Office of Elementary and Secondary Education,  
Department of Education.

ACTION: Proposed priorities, requirements, and  
definitions.

SUMMARY: The Department of Education (Department) proposes  
priorities, requirements, and definitions under the Mental  
Health Service Professional Demonstration Grant Program,  
Assistance Listing Number 84.184X. We may use one or more  
of these priorities, requirements, and definitions for  
competitions in fiscal year (FY) 2022 and later years. We  
propose priorities, requirements, and definitions designed  
to provide competitive grants to support and demonstrate  
innovative partnerships to train school-based mental health  
services providers (as defined in section 4102 of the  
Elementary and Secondary Education Act of 1965, as amended  
(ESEA)) for employment in schools and local educational  
agencies (LEAs). The goal of the program is to increase  
the number of high-quality, trained providers to address

the shortages of mental health services professionals in schools served by high-need LEAs.

DATES: We must receive your comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Comments must be submitted via the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). However, if you require an accommodation or cannot otherwise submit your comments via [regulations.gov](http://www.regulations.gov), please contact the program contact person listed under FOR FURTHER INFORMATION CONTACT. The Department will not accept comments by fax or by email, or comments submitted after the comment period closes. To ensure that the Department does not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

The Department strongly encourages you to submit any comments or attachments in Microsoft Word format. If you must submit a comment in Adobe Portable Document Format (PDF), the Department strongly encourages you to convert the PDF to "print-to-PDF" format, or to use some other commonly used searchable text format. Please do not submit the PDF in a scanned format. Using a print-to-PDF format allows the Department to electronically search and copy certain portions of your submissions to assist in the rulemaking process.

- Federal eRulemaking Portal: Please go to [www.regulations.gov](http://www.regulations.gov) to submit your comments electronically. Information on using Regulations.gov, including instructions for finding a rule on the site and submitting comments, is available on the site under "FAQ."

Privacy Note: The Department's policy is to generally make comments received from members of the public available for public viewing on the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). Therefore, commenters should include in their comments only information about themselves that they wish to make publicly available. Commenters should not include in their comments any information that identifies other individuals or that permits readers to identify other individuals. If, for example, your comment describes an experience of someone other than yourself, please do not identify that individual or include information that would allow readers to identify that individual. The Department will not make comments that contain personally identifiable information (PII) about someone other than the commenter publicly available on [www.regulations.gov](http://www.regulations.gov) for privacy reasons. This may include comments where the commenter refers to a third-party individual without using their name if the Department determines that the comment provides enough detail that could allow one or more readers to link the information to the third party. If your comment refers to a third-party

individual, to help ensure that your comment is posted, please consider submitting your comment anonymously to reduce the chance that information in your comment about a third party could be linked to the third party. The Department will also not make comments that contain threats of harm to another person or to oneself available on [www.regulations.gov](http://www.regulations.gov).

FOR FURTHER INFORMATION CONTACT: Earl Myers, U.S. Department of Education, 400 Maryland Avenue, SW, room 3E244, Washington, DC 20202. Telephone: (202) 453-6716. Email: [Mental.Health@ed.gov](mailto:Mental.Health@ed.gov).

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7-1-1.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding the proposed priorities, requirements, and definitions. To ensure that your comments have maximum effect in developing the notice of final priorities, requirements, and definitions, we urge you to clearly identify the specific section of the proposed priorities, requirements, or definitions that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from the proposed priorities,

requirements, and definitions. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about the proposed priorities, requirements, and definitions by accessing Regulations.gov. You may also inspect the comments in person. Please contact the person listed under FOR FURTHER INFORMATION CONTACT to make arrangements to inspect the comments in person.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for the proposed priorities, requirements, and definitions. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

Purpose of Program: The Mental Health Service Professional Demonstration Grant Program provides competitive grants to support and demonstrate innovative partnerships to train school-based mental health services providers for employment in schools and LEAs. The goal of this program is to increase the number of high-quality, trained

providers to address the shortages of mental health services professionals in schools served by high-need LEAs. The partnerships must include (1) one or more high-need LEAs or a State educational agency (SEA) on behalf of one or more high-need LEAs; and (2) one or more eligible institutions of higher education (IHE). Partnerships must provide opportunities to place postsecondary graduate students in school-based mental health fields into high-need schools served by the participating high-need LEAs to complete required field work, credit hours, internships, or related training, as applicable, for the degree, license, or credential program of each student. In addition to the placement of graduate students, grantees may also develop mental health career pathways as early as secondary school, through career and technical education opportunities, or through paraprofessional support degree programs at local community or technical colleges.

Program Authority: Section 4631(a)(1)(B) of the Elementary and Secondary Education Act of 1965, as amended (ESEA) (20 U.S.C. 7281).

PROPOSED PRIORITIES:

This document contains three proposed priorities. We may apply one or more of these priorities in any year in which this program is in effect.

Background:

Like good physical health, positive mental health promotes success in life. As defined by the Centers for Disease Control and Prevention (CDC), "Mental health includes our emotional, psychological, and social well-being. It affects how we think, feel, and act. It also helps determine how we handle stress, relate to others, and make healthy choices. Mental health is important at every stage of life, from childhood and adolescence through adulthood."<sup>1</sup>

Support for the mental health of children and youth advances educational opportunities by creating conditions where students can fully engage in learning. The Novel Coronavirus Disease 2019 (COVID-19) pandemic presented additional challenges to the well-being of children and youth. The disruption to routines, relationships, and the learning environment has led to increased stress and trauma, social isolation, and anxiety that can have both immediate and long-term adverse impacts on the physical, social, emotional, and academic well-being of children and youth.<sup>2</sup> These challenges have only exacerbated existing challenges facing children and youth and have heightened

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<sup>1</sup> Centers for Disease Control and Prevention.  
<https://www.cdc.gov/mentalhealth/learn/index.htm>. Accessed on June 29, 2022

<sup>2</sup> "Fact Sheet: President Biden to Announce Strategy to Address Our National Mental Health Crisis, As Part of Unity Agenda in his First State of the Union." The White House.  
<https://www.whitehouse.gov/briefing-room/statements-releases/2022/03/01/fact-sheet-president-biden-to-announce-strategy-to-address-our-national-mental-health-crisis-as-part-of-unity-agenda-in-his-first-state-of-the-union/>. Accessed June 29, 2022.

the need to increase access to qualified school-based mental health services providers.

The Mental Health Service Professional Demonstration Grant program is designed to address several barriers to increasing mental health support for children and youth in our schools. First, there is a significant shortage of qualified school-based mental health services providers in all types of schools, whether urban, rural, or suburban, or elementary, middle, or high schools. Qualified professionals may need training and skill sets that include the capacity to conduct behavioral health assessments, identify youth who may need additional supports or pose a serious threat to themselves or others, and provide evidence-based interventions, particularly related to trauma- and grief- informed care. Qualified providers may also need to assist in the development of school environments and activities that promote behavioral wellness and foster resilience. According to recent national data, the ratios of students to providers are significantly greater than what experts recommend:

(1) The student-to-counselor ratio is 415:1, compared to the recommended ratio of 250:1 by the American School Counselor Association<sup>3</sup>; and

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<sup>3</sup> "School Counselor Roles and Ratios." American School Counselor Association Home Page. <https://www.schoolcounselor.org/About-School-Counseling/School-Counselor-Roles-Ratios>. Accessed June 29, 2022.



(2) The student-to-psychologist ratio is estimated at 1211:1, with some States approaching a ratio of 5000:1, compared to the recommended ratio of 500:1 for providing comprehensive school psychological services by the National Association of School Psychologists.<sup>4</sup>

Second, in mental health services provider preparation and professional development programs, there is a need to expand pedagogical practices that prepare providers to create culturally and linguistically inclusive and identity-safe environments for students when providing services. In particular, the public stigmatization associated with mental health care, which can lead to fewer children and adolescents being willing to access care even when it is available, makes inclusive service environments even more important for underserved groups.<sup>5</sup>

Third, there is a need for greater diversity in the profession, including more school-based mental health services providers from diverse backgrounds or from the communities they serve.<sup>6</sup> Like the inclusive pedagogical practices described above, diversifying the pipeline of

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<sup>4</sup> "Research Summary: Shortages in School Psychology." National Association of School Psychologists. <https://www.nasponline.org/research-and-policy/policy-priorities/critical-policy-issues/shortage-of-school-psychologists>. Accessed March 28, 2022.

<sup>5</sup> "Protecting Youth Mental Health" <https://www.hhs.gov/sites/default/files/surgeon-general-youth-mental-health-advisory.pdf>. U.S. Surgeon General's Advisory. Accessed June 17, 2022

<sup>6</sup> "Demographics of the U.S. Psychology Workforce" <https://www.apa.org/workforce/data-tools/demographics>. American Psychological Association. Accessed July 13, 2022

candidates is critical to improving access to and utilization of services for all students.

In response to these barriers, the Department is proposing three priorities for the Mental Health Service Professional Demonstration Grant Program that aim to increase the number of school-based mental health services providers, increase the number of providers from diverse backgrounds or from the communities they serve, and ensure that all providers are trained in inclusive practices, including supporting providers in ensuring access to services for children and youth who are English learners. Additionally, the Department proposes application requirements for the program, one of which requires applicants to describe how they will leverage available Federal, State, and local resources to achieve project goals and objectives. Specifically, the Department encourages applicants to utilize the American Rescue Plan's (ARP's) historic investment in children and youth by using available ARP funds in conjunction with other Federal, State, and local funds and Mental Health Service Professional Demonstration Grant Program funds to make investments that will create permanent support for an adequate pipeline of trained and diverse providers well beyond the life of the project.

In addition to the competition under the Mental Health Service Professional Demonstration Grant Program described

in this document, the Department is conducting a second grant competition this fiscal year also focused on school-based mental health services providers. The School-Based Mental Health Services Grant (SBMH) program provides competitive grants to SEAs, LEAs, and consortia of LEAs to increase the number of qualified mental health services providers providing school-based mental health services to students in LEAs with demonstrated need. For more information about the SBMH program, visit the Department's website at: <https://oese.ed.gov/offices/office-of-formula-grants/safe-supportive-schools/school-based-mental-health-services-grant-program/>. Together these two programs are intended to provide timely and necessary support to LEAs by increasing the number of school-based mental health services providers.

Proposed Priorities:

Proposed Priority 1-Expand Capacity of High-need LEAs.

Projects that propose to expand the capacity of high-need LEAs (as defined in this notice) in partnership with IHEs to train school-based mental health services providers (as defined in this notice), with the goal of expanding the number of these professionals available to address the shortages of school-based mental health services providers in high-need schools.

To meet this priority, the applicant must propose a school-based mental health partnership (as defined in this notice) to place the IHE's graduate students in mental health services fields into schools served by the participating high-need LEAs for the purpose of completing required field work, credit hours, internships, or related training as applicable for their degree, license, or credential program.

Proposed Priority 2-Increase the Number of Qualified School-Based Mental Health Services Providers in High-Need LEAs Who Are from Diverse Backgrounds or from communities Served by the High-Need LEAs.

Projects that propose to increase the number of qualified school-based mental health services providers in high-need LEAs who are from diverse backgrounds or who are from communities served by the high-need LEAs.<sup>7</sup>

Applicants must describe how their proposal to increase the number of school-based mental health services providers who are from diverse backgrounds or who are from the communities served by the high-need LEA will help increase access to mental health services for students within the high-need LEA and best meet the mental health needs of the diverse populations of students to be served.

Proposed Priority 3-Promote Inclusive Practices.

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<sup>7</sup> All strategies to increase the diversity of providers must comply with applicable Federal civil rights laws, including Title VI of the Civil Rights Act of 1964.

Projects that propose to provide pedagogical practices in mental health services provider preparation programs or professional development programs that are inclusive with regard to race, ethnicity, culture, language, disability, and for students who identify as LGBTQI+, and that prepare school-based mental health services providers to create culturally and linguistically inclusive and identity-safe<sup>8</sup> environments for students when providing services.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the *Federal Register*. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that

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<sup>8</sup> An identity-safe environment is a place where every student feels physically and emotionally safe. Perceptions of safety often differ across different groups of students, and each intervention and support measure should be designed to ensure the safety and belonging of all students.

meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

PROPOSED REQUIREMENTS:

The Department proposes the following program requirement and application requirements for this program. We may apply one or more of these requirements in any year in which the program is in effect.

Proposed Program Requirement:

Eligible Applicants:

Eligible applicants for this program are high-need LEAs, SEAs on behalf of one or more high-need LEAs, and IHEs. High-need LEA applicants and SEA applicants on behalf of one or more high-need LEAs must propose to work in partnership with an eligible institution of higher education (eligible IHE), which may include institutions that serve diverse learners such as partnerships with a Historically Black College or University, Tribal College or University, and other Minority Serving Institutions. Eligible IHE applicants must propose to work in partnership with one or more high-need LEAs or an SEA.

Proposed Application Requirements:

(a) Identification of schools to be served by the proposed project.

Applicants must identify or describe how they will identify the high-need schools to be served in each high-need LEA that is part of the school-based mental health partnership.

(b) A description of the nature and magnitude of the problem.

Applicants must describe how the lack of school-based mental health services providers is specifically affecting students in the high-need schools to be served by project activities. Applicants must describe the nature of the problem for the LEA, based on information including, but not limited to, the most recent available ratios of school-based mental health services providers to students enrolled in the schools in each high-need LEA that is part of the school-based mental health partnership (in the aggregate and disaggregated by profession (e.g., social workers, school psychologists)). The description may also include LEA and school-level demographic data, including chronic absenteeism and discipline data, school climate surveys, school violence/crime data, data related to suicide rates, and descriptions of barriers to hiring and retaining services providers in the LEA.

(c) A plan to enhance LEA capacity to provide mental health services to students.

Applicants must describe the specific activities they will conduct to expand and improve LEA capacity to provide mental health services to students in high-need LEAs and ensure that students receive appropriate, evidence-based (as defined in section 8101 of the ESEA), and culturally and linguistically inclusive mental health services. To meet this requirement, the applicant must propose a school-based mental health partnership (as defined in this notice) established for the purpose of placing the IHE's graduate students in school-based mental health fields into high-need schools served by the participating high-need LEAs to complete required field work, credit hours, internships, or related training as applicable for the degree, license, or credential program of each student. If the applicant intends to establish a program that directly benefits an individual graduate student, such as through a stipend or tuition credit, the applicant must describe its approach to implementing a service obligation for such graduate student as a school-based mental health services provider in a high-need LEA commensurate with the level of support the graduate student receives.

(d) A Memorandum of Understanding (MOU), a Memorandum of Agreement (MOA), or Letter of Agreement between the LEA or SEA, and the IHE.

Applicants must include with their application an MOU, MOA, or letter of agreement that is signed by the



authorized representatives of the LEA or SEA, and the IHE. The MOU, MOA, or letter of agreement must provide details regarding the roles and responsibilities of each entity in the partnership, to include a description of how the partnership will place graduate students into high-need schools served by the participating high-need LEAs to complete required field work, credit hours, internships, or related training, as applicable, for the degree, license, or credential program of each student. The MOU, MOA, or letter of agreement must also include the estimated number of mental health services providers that will be placed into employment in high-need schools and high-need LEAs on an annual basis.

(e) A plan for collaboration and coordination with related Federal, State, and local initiatives.

Applicants must propose a plan that describes one or more of the following:

(1) How they will collaborate with at least one State and one local professional organization (to include a regional professional organization, if appropriate), such as a school social worker association, school psychologist association, or school counselor association;

(2) The activities to be carried out in coordination with regional and local mental health, public health, child welfare, and other community agencies, which may include school-based health centers, to achieve the plan goals and

objectives of establishing a pipeline program to train and expand the capacity of school-based mental health services providers in high-need LEAs;

(3) How they will leverage other available Federal, State, and local resources to achieve project goals and objectives and sustain investments beyond the life of the project. Applicants must identify these other available resources and describe how they will be used to promote success across programs; and

(4) How they will use the Mental Health Service Professional Demonstration Grant Program funds to expand and enhance existing efforts, or put in place new measures to increase the number of qualified school-based mental health services providers to be employed by eligible schools and LEAs qualified to provide school-based mental health services..

Evidence of collaboration and coordination described in paragraphs (e)(1) and (2) must be provided through letters of support or MOAs/MOUs from State or local organizations or agencies, where applicable.

(f) A description of the process to identify students for mental health services.

Applicants must describe the specific process and activities they will use to ensure students in high-need LEAs who need school-based mental health services are properly identified, assessed, and provided the appropriate

school-based mental health services. To meet this requirement, applicants must also describe how they will ensure that services are evidence-based and inclusive with regard to race, ethnicity, culture, language, disability, and for students who identify as LGBTQI+, and are accessible to all. Further, applicants must describe how LEAs will engage parents and families for the purposes of raising awareness about the availability of services and connecting students to services.

PROPOSED DEFINITIONS:

The Department proposes to establish definitions of "eligible institution of higher education," "high-need LEA," "high-need school," "school-based mental health partnership," and "students/children from low-income families," for use in this program. We may apply the definitions in any year in which this program is in effect.

Eligible institution of higher education means an institution of higher education that offers a program of study that leads to a master's degree or other graduate degree—

(a) In school psychology that prepares students in such program for the State licensing or certification examination in school-based psychology;

(b) In school counseling that prepares students in such program for the State licensing or certification examination in school counseling;

(c) In school social work that prepares students in such program for the State licensing or certification examination in school social work;

(d) In another school-based mental health field, including such fields as behavioral health aides, school nurses, and clinical psychologists employed by the schools or under contract with LEAs to provide evaluations, if applicable, that prepares students in such program for the State licensing or certification examination; or

(e) In any combination of study described in paragraphs (a) through (d).

High-need LEA means a local educational agency—

(a) (1) For which at least 20 percent of the children served by the agency are children from low-income background;

(2) That serves at least 10,000 children from low-income backgrounds;

(3) That meets the eligibility requirements for funding under the Small, Rural School Achievement Program under section 56211(b) of the Elementary and Secondary Education Act of 1965; or

(4) That meets the eligibility requirements for funding under the Rural and Low-Income School Program under

section 56221(b) of the Elementary and Secondary Education Act of 1965; and

(b) For which there is a high student to qualified mental health services provider ratio as compared to other LEAs statewide or nationally.

High-need school means a school that, based on the most recent data available, meets at least one of the following:

(a) The school is in the highest quartile of all schools served by an LEA ranked in descending order by percentage of students from low-income families enrolled in such schools, as determined by the LEA based on one of the following measures of poverty:

(1) The percentage of students aged 5 through 17 in poverty counted in the most recent census data approved by the Secretary.

(2) The percentage of students eligible for a free or reduced-price school lunch under the Richard B. Russell National School Lunch Act based on the most recently available data.

(3) The percentage of students in families receiving assistance under the State program funded under part A of title IV of the Social Security Act.

(4) The percentage of students eligible to receive medical assistance under the Medicaid program.

(5) A composite of two or more of the measures described in paragraphs (a)(1) through (4).

(b) In the case of--

(1) An elementary school, the school serves students not less than 60 percent of whom are eligible for a free or reduced-price school lunch under the Richard B. Russell National School Lunch Act based on the most recently available data; or

(2) Any other school that is not an elementary school, the other school serves students not less than 45 percent of whom are eligible for a free or reduced-price school lunch under the Richard B. Russell National School Lunch Act based on the most recently available data.

School-based mental health partnership means the formal relationship, established for the purpose of training school-based mental health services providers for employment in schools and LEAs, between--

(a) One or more high-need LEAs or an SEA on behalf of one or more high-need LEAs; and

(b) One or more eligible IHEs.

Students/children from low-income families means students whose families meet any of the poverty thresholds established in section 1113 of the ESEA for the relevant grade level.

Final Priorities, Requirements, and Definitions:

We will announce the final priorities, requirements, and definitions in a document published in the *Federal Register*. We will determine the final priorities, requirements, and definitions after considering responses to the proposed priorities, requirements, and definitions and other information available to the Department. This document does not preclude us from proposing additional priorities, requirements, or definitions, subject to meeting applicable rulemaking requirements.

Note: This document does not solicit applications. In any year in which we choose to use the priorities, requirements, and definitions, we invite applications through a notice inviting applications in the *Federal Register*.

#### Executive Orders 12866 and 13563

#### Regulatory Impact Analysis

Under Executive Order 12866, it must be determined whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may--

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment,

public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This proposed regulatory action is a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866 because it has an annual effect on the economy of more than \$100 million.

Approximately \$145 million are available under this program from fiscal year 2022 appropriations actions, and \$100 million are available each year from fiscal year 2023 to fiscal year 2026.

We have also reviewed this proposed regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—



(1) Propose or adopt regulations only on a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency “to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.” The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may

include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing the proposed priorities, requirements, and definitions only on a reasoned determination that their benefits would justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on an analysis of anticipated costs and benefits, we believe that the proposed priorities, requirements, and definitions are consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with the Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

#### Potential Costs and Benefits

The proposed priorities, requirements, and definitions are necessary for the implementation of the Mental Health Service Professional Demonstration Grant Program consistent

with the requirements established by Congress in the Department of Education Appropriations Act, 2022, and the Explanatory Statement accompanying that Act. It is important to note that implementation of the Mental Health Service Professional Demonstration Grant Program would almost exclusively confer benefits on the recipients of Federal funds subject to the proposed priorities, requirements, and definitions, whose voluntary participation in the Mental Health Service Professional Demonstration Grant Program would entail minimal costs except for those paid with Federal funds, and the Paperwork Reduction Act (PRA) section of this document discusses the burden estimates for preparing an application. This program was established under a statute with broad authority and only non-binding report language establishing program purpose, eligibility, or requirements; consequently, this rulemaking action is necessary to ensure program funds are used for their intended purpose. More specifically, the proposed priorities, requirements, and definitions would ensure that the Department may collect from applicants for Mental Health Service Professional Demonstration Grant Program funding the information necessary for competitive review of applications by peer reviewers, and to fund high-quality applications that will lead to the implementation of projects consistent with

Congressional intent. Absent this rulemaking action, there is no alternative means of meeting these objectives.

The specific benefits of establishing a menu of proposed priorities include ensuring that funds are used consistent with Congressional intent and providing flexibility to the Department for supporting multiple strategies designed to address the shortage of mental health services providers in schools. The first strategy, embedded in proposed priority 1, is to focus grant activities on the expansion of school-based mental health services providers on high-need LEAs. The definition of high-need LEA, incorporated into these priorities, was crafted to provide flexibility for an LEA to show need in various ways, including through poverty rates or size. Although the total number of LEAs is large (over 13,000 in school year 2018-19), the available funding will only support a limited number of multi-year projects. Absent the targeting of Mental Health Service Professional Demonstration Grant Program funds to high-need LEAs, the program may allocate scarce Federal resources to high-capacity LEAs that already meet the mental health needs of their students. Moreover, ensuring that funds are targeted to high-need LEAs was a requirement of the fiscal year 2019 Mental Health Service Professional Demonstration Grant Program competition, and Congress directed the Department, through the Explanatory Statement accompanying the

Department of Education Appropriations Act, 2022, to incorporate the same requirement into the fiscal year 2022 Mental Health Service Professional Demonstration Grant Program competition.

Proposed priority 2 supports a strategy for expanding the workforce of school-based mental health services providers. Currently, the psychology<sup>9</sup> and school counselor<sup>10</sup> workforces are significantly less diverse than the student population.<sup>11</sup> Increasing the number of qualified school-based mental health services providers who are from diverse backgrounds and from communities served by the high-need LEAs, and who can provide culturally and linguistically appropriate services, would expand not only the numbers of these providers but also provide better access to and improve the quality of mental health services available to students. This priority has the additional benefit of promoting equity for students, in keeping with the Administration's agenda<sup>12</sup> and the Department's mission to support equity and excellence.

Proposed priority 3 seeks to increase the number of school-based mental health services providers who can provide services that are culturally and linguistically

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<sup>9</sup> <https://www.apa.org/workforce/data-tools/demographics>

<sup>10</sup> <https://www.schoolcounselor.org/getmedia/9c1d81ab-2484-4615-9dd7-d788a241beaf/member-demographics.pdf>

<sup>11</sup> <https://nces.ed.gov/programs/coe/indicator/cge/racial-ethnic-enrollment>

<sup>12</sup> <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/>

inclusive and identity-safe environments for students. Given the diversity of the student population, every school-based mental health services provider should be able to implement inclusive practices and be able to provide services to any and all students. This priority also supports the Administration's equity agenda and the Department's mission to support equity and excellence.

The Department believes that this proposed regulatory action would not impose significant costs on eligible entities, whose participation in our programs is voluntary, and whose costs can generally be covered with grant funds. As a result, the proposed priorities, requirements, and definitions would not impose a significant burden, except when an entity voluntarily elects to apply for a grant. Moreover, the Department believes the benefits associated with the grant application would outweigh any associated costs.

The Paperwork Reduction Act (PRA) section of this document discusses the burden estimates for preparing an application. The potential benefits of receiving Federal funds under this program to expand the pool of and hire school-based mental health services providers will likely outweigh the application costs detailed in the PRA section. The costs of implementing the requirements established in this notice generally can be paid for with grant funds. Moreover, even an unsuccessful applicant may benefit from

the effort of preparing an application, such as conducting deep data analysis about the needs in their LEA or developing partnerships with IHEs that lead to other projects.

#### Regulatory Alternatives Considered

The Department believes that the final priorities, requirements, definitions, and selection criteria in this notice are needed to administer the program effectively. The priorities will enable the Department to administer a competitive grant program consistent with the intent of Congress as expressed in the Explanatory Statement accompanying the Department of Education Appropriations Act, 2022 (Public Law 117-103), which provided funding for the program in fiscal year 2022, and the Bipartisan Safer Communities Act (Public Law 117-159), which provided additional funding for fiscal years 2022 through 2026.

#### Accounting Statement

As required by OMB Circular A-4 (available at [www.whitehouse.gov/sites/default/files/omb/assets/omb/circular004/a-4.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/omb/circular004/a-4.pdf)), in the following table we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of this regulatory action. This table provides our best estimate of the changes in annual monetized transfers as a result of this regulatory action.

Expenditures are classified as transfers from the Federal Government to LEAs and IHEs.

ACCOUNTING STATEMENT CLASSIFICATION OF ESTIMATED EXPENDITURES (in millions)		
Category	Transfers	
	3%	7%
Annualized monetized transfers	\$108.6	\$108.6
From whom to whom?	From the Federal government to LEAs and IHEs	

### Clarity of the Regulations

Executive Order 12866 and the Presidential memorandum "Plain Language in Government Writing" require each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make the proposed priorities, requirements, and definitions easier to understand, including answers to questions such as the following:

- Are the priorities, requirements, and definitions in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?



- Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections?

- Could the description of the proposed regulations in the SUPPLEMENTARY INFORMATION section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?

- What else could we do to make the proposed regulations easier to understand?

To send any comments that concern how the Department could make the proposed priorities, requirements, and definitions easier to understand, see the instructions in the ADDRESSES section.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Regulatory Flexibility Act Certification

The Secretary certifies that this proposed regulatory action would not have a significant economic impact on a substantial number of small entities. The U.S. Small

Business Administration Size Standards define proprietary institutions as small businesses if they are independently owned and operated, are not dominant in their field of operation, and have total annual revenue below \$7,000,000. Nonprofit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a government overseeing a population below 50,000.

The small entities that this proposed regulatory action would affect are school districts and IHEs applying for and receiving funds under this program. The Secretary believes that the costs imposed on applicants by the proposed priorities, requirements, and definitions, would be limited to paperwork burden related to preparing an application and that the benefits of implementing these proposals would outweigh any costs incurred by applicants.

Participation in this program is voluntary. For this reason, the proposed priorities, requirements, and definitions would impose no burden on small entities in general. Eligible applicants would determine whether to apply for funds and have the opportunity to weigh the requirements for preparing applications, and any associated costs, against the likelihood of receiving funding and the requirements for implementing projects under the program. Eligible applicants most likely would apply only if they

determine that the likely benefits exceed the costs of preparing an application. The likely benefits include the potential receipt of a grant as well as other benefits that may accrue to an entity through its development of an application, such as the use of that application to seek funding from other sources to address a shortage in mental health providers.

#### Paperwork Reduction Act

As part of its continuing effort to reduce paperwork and respondent burden, the Department provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 et seq.). This helps ensure that the public understands the Department's collection instructions, respondents provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

The proposed priorities, requirements, and definitions contain information collection requirements. Under the PRA the Department has submitted these requirements to OMB for its review.

A Federal agency may not conduct or sponsor a collection of information unless OMB approves the

collection under the PRA and the corresponding information collection instrument displays a currently valid OMB control number. Notwithstanding any other provision of the law, no person is required to comply with, or is subject to penalty for failure to comply with, a collection of information if the collection instrument does not display a currently valid OMB control number.

In the notice of final priorities, requirements, and definitions we will display the control number assigned by OMB to any information collection proposed in this document and adopted in the notice of final priorities, requirements, and definitions.

For the years in which the Department holds a Mental Health Service Professional Demonstration Grant Program competition, we estimate there will be 500 applicants based on prior competitions for the program. We estimate that it will take each applicant 40 hours to complete and submit the application, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The total burden hour estimate for this collection is 20,000 hours. At \$95.46 per hour (using mean wages for Education and Childcare Administrators<sup>13</sup> and assuming the total cost of labor, including benefits and overhead, is equal to 200 percent of

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<sup>13</sup> See [www.bls.gov/oes/current/oes\\_nat.htm](http://www.bls.gov/oes/current/oes_nat.htm).

the mean wage rate), the total estimated cost for 500 applicants to complete the Mental Health Service Professional Demonstration Grant Program application is approximately \$1,909,200.

The Department is requesting paperwork clearance on the OMB 1810-xxxx data collection associated with the proposed requirements. That request will account for all burden hours and costs discussed within this section.

Consistent with 5 CFR 1320.8(d), the Department is soliciting comments on the information collection through this document. Between 30 and 60 days after publication of this document in the Federal Register, OMB is required to make a decision concerning the collections of information contained in these proposed priorities, requirements, and definitions. Therefore, to ensure that OMB gives your comments full consideration, it is important that OMB receives your comments on this Information Collection Request by [INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Comments related to the information collection activities must be submitted electronically through the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov) by selecting the Docket ID number ED-2022-OESE-0094 or via postal mail, commercial delivery, or hand delivery by referencing the Docket ID number and the title of the information collection request at the top of your

comment. Comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave., SW, LBJ, Room 6W208D, Washington, DC 20202-8240.

Note: The Office of Information and Regulatory Affairs and the Department review all comments related to the information collection activities posted at [www.regulations.gov](http://www.regulations.gov).

Collection of Information

Information Collection Activity	Estimated Number of Responses	Hours Per Response	Total Estimated Burden Hours	Estimated Cost at an Hourly Rate of \$95.46
Mental Health Service Professional Demonstration Grant Program Application	500	40	20,000	\$1,909,200

We consider your comments on this proposed collection of information in--

- Deciding whether the proposed collection is necessary for the proper performance of our functions, including whether the information will have practical use;
- Evaluating the accuracy of our estimate of the burden of the proposed collection, including the validity of our methodology and assumptions;

- Enhancing the quality, usefulness, and clarity of the information we collect; and

- Minimizing the burden on those who must respond. This includes exploring the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

Accessible Format: On request to the program contact person listed under FOR FURTHER INFORMATION CONTACT, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the *Federal Register*. You may access the official edition of the *Federal Register* and the Code of Federal Regulations at [www.govinfo.gov](http://www.govinfo.gov). At this site you can view this document, as well as all other documents of the Department published in the *Federal Register*, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the *Federal Register* by using the article search feature at [www.federalregister.gov](http://www.federalregister.gov). Specifically,

through the advanced search feature at this site, you can limit your search to documents published by the Department.

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Ruth E. Ryder,  
*Deputy Assistant Secretary for  
Policy and Programs,  
Office of Elementary and Secondary  
Education.*

[FR Doc. 2022-16556 Filed: 8/1/2022 8:45 am; Publication Date: 8/2/2022]